

Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

**CHRISTIE BOWERS,**

**Plaintiff,**

**vs.**

**ROBIN KLETKE and ROBIN COHEN,  
husband and wife and the marital  
community composed thereof,**

**Defendants.**

**NO. C08-1768 RSM**

**PLAINTIFF'S CORRECTED REPLY TO  
DEFENDANTS' OPPOSITION  
TO PLAINTIFF'S MOTION TO  
WITHDRAWAL COUNSEL**

**NOTED ON MOTION DOCKET:  
MARCH 26, 2010**

Counsel for Plaintiff files this Corrected Reply to Defendants' Opposition To Plaintiff's Motion To Withdrawal Counsel to correct an error in the final sentence of the original submission where counsel incorrectly referred to **Defendants'** Initial Disclosure rather than **Plaintiff's** Initial Disclosure.

Counsel regrets and apologizes for this error and any confusion it may have caused.

In an effort to keep Gregory Cavagnaro in this case as Plaintiff's counsel of record, the Defendants' Opposition to Plaintiff's Motion to Withdrawal Counsel incorrectly suggests that the plaintiff lacks evidence that shows the defendants accessed her online email

1 account with [www.juno.com](http://www.juno.com), an “electronic communication service” as that term is defined  
 2 by 18 USC § 2510(15) and an “electronic communications system” as defined by 18 USC §  
 3 2510(14). In particular, the defendants ignore portions of the Complaint alleging  
 4 unauthorized access to her online **email account**.

5 Paragraph 3.7 of Ms. Bower’s Complaint states:

6 . . . . **plaintiff contacted the Custodians of Records at Juno to**  
 7 **determine if the defendants had in fact** intercepted plaintiff’s personal  
 8 emails and **obtained access to her email account with Juno. The**  
 9 **Custodian of Records at Juno produced plaintiffs email account**  
 10 **records from March 26 to November 26, 2007.** During the  
 11 aforementioned 6 month period, **Juno records confirmed that the**  
 12 **defendants surreptitiously obtained access to plaintiff’ s** personal  
 13 emails and **email account**, and had intercepted and viewed 139 emails  
 14 without plaintiffs’ knowledge.

15 (Attached as **Exhibit 1** to Walters Decl. in Support of Reply to Defendants’ Opposition to  
 16 Motion to Withdraw Counsel (“Walters Reply Decl.”); Bold emphasis added)).

17 Paragraph 3.7 of her Complaint states:

18 After conducting an independent investigation, Kathryn Surace-Smith,  
 19 Vice President and General Counsel of SonoSite **confirmed in a**  
 20 **February 25, 2008 correspondence to Mr. Foster that defendant**  
 21 **Robin Kletke accessed plaintiffs email account from the company’s**  
 22 **servers on several occasions. . . .**

23 (**Exhibit 1** to Walters Reply Decl.; Bold emphasis added)).

24 These allegations in the Complaint allege that the defendants accessed her online  
 25 **email account** on multiple occasions, and these facts are verified by Juno’s records and by  
 26 SonoSite. Inc.

Attached as **Exhibit 2** to Walters Reply Decl., is a copy of a January 24, 2008 letter  
 with its enclosure from attorney Jeffrey E. Foster to SonoSite, Inc. In this letter, Mr. Foster  
 explains that he verified “IP Address 206.169.230.3” as belonging to SonoSite, Inc. under  
 the host name “cuba.sonosite.com.” (See page 2 of **Exhibit 2** to Walters Reply Decl.).

1 Attached as **Exhibit 3** to Walters Reply Decl. is a true and correct copy of a letter Ms.  
2 Bowers received from the Records Custodian for Juno and excerpts from the documents  
3 Juno produced. These documents show access to Ms. Bower's [www.juno.com](http://www.juno.com) email  
4 account from SonoSite's IP Address 206.169.230.3, and SonoSite, Inc. confirmed these  
5 facts.

6 Attached as **Exhibit 4** to Walters Reply Decl. is a letter dated February 25, 2008,  
7 signed by Ms. Kathryn Surace-Smith, Vice President, General Counsel and Corporate  
8 Secretary of SonoSite, Inc., which states:  
9

10 **SonoSite has concluded its investigation and has confirmed that Mr.**  
11 **Robin Kletke, an independent contractor engaged by SonoSite,**  
12 **accessed your client's personal email account from the company's**  
13 **servers on several occasions.** This was obviously outside Mr. Kletke's  
14 scope of engagement by SonoSite. We have taken steps to ensure that Mr.  
15 Kletke no longer has internet access while performing services for  
16 SonoSite.

17 (Bold emphasis added).

18 Therefore, it is incorrect for the defendants to suggest that Plaintiff does not possess  
19 evidence that they accessed her [www.juno.com](http://www.juno.com) email account on multiple occasions without  
20 her permission in violation of the Electronic Communications Privacy Act of 1986. 18 U.S.C.  
21 §§ 2701, 2707 and 2720. And, while it may be true that the Plaintiff does not currently have  
22 evidence of the actual emails the defendants viewed because the Plaintiff has not yet taken  
23 the defendants' depositions, Plaintiff should be able to obtain this evidence, *to the extent it is*  
24 *necessary to prove her claims*, from the defendants during their depositions or from third  
25 party witnesses identified in **Plaintiff's** Initial Disclosure.<sup>1</sup>  
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<sup>1</sup> Counsel for plaintiff incorrectly referred to Defendants' Initial Disclosure in her prior submission.

1 The Plaintiffs' Motion to terminate Mr. Cavagnaro's official representation of Ms.  
2 Bowers should be granted.

3 Dated: March 29, 2010.

WALTERS LAW FIRM PLLC

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A handwritten signature in blue ink, appearing to read "Mark Walters", is centered on a light gray rectangular background.

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